THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION NO.24343 of 2006

DATED 24.11.2006

Between:
Kantilal Sugandhi PETITIONER

Versus

Municipal Corporation of Hyderabad,
Represented by its Commissioner, Tank
Bund Road, Hyderabad and another. RESPONDENTS

WRIT PETITION NO.24343 of 2006

ORDER:

This Court ordered Notice Before Admission on 22.11.2006 and status order was granted for a limited period of one week. The matter is coming up for admission today.

2. Heard the learned counsel for the writ petitioner and also the learned Standing Counsel representing the respondents.

3. The Writ Petition is filed for a Writ of Mandamus declaring the action of the respondents in seeking to demolish the premises of the petitioner bearing municipal No.15-5-97, Afzalgunj, Hyderabad, without following due process of law as contemplated under Sections 459 and 456 of Hyderabad Municipal Corporation Act as illegal, arbitrary, violative of principles of natural justice and consequently direct the respondents not to demolish or interfere with the business activities of the petitioner without following due process of law and pass such other suitable orders.

4. Several factual details are narrated in paragraphs 3 to 11 of the affidavit filed in support of the Writ Petition. It is stated that though an appeal is provided under Section 654 of Hyderabad Municipal Corporation Act before the Small Causes Court, the petitioner was

constrained to approach this Court in Writ Petition No.11223 of 2005, since the respondents had no valid grounds to invoke the provisions of Section 456 of the Act aforesaid. This Court while ordering notice to the respondents in the said Writ Petition, passed interim orders in WPMP No.14392 of 2005 while ordering not to demolish the building, observed that it is open to the 1st respondent to depute the Chief City Planner along with any technical personal having structural engineering qualifications to inspect the premises and that if on such inspection and receiving report, the 1st respondent is satisfied that there is imminent danger to life or property by the building, then the Commissioner may pass orders for demolition of the building, but on the mere basis of the notice dated 9.5.2005, which is based on the report of the Deputy Executive Engineer, Sub-Division-II of the MCH. However, at present the Condition Survey Report – A Three-Storeyed Building 15.5.95 –100, 95/1 and 95/2, Afzalgunj, Hyderabad had been placed before this Court.

5. The learned counsel for the petitioner states that such a report was not furnished to the petitioner and hence the petitioner was unable to raise the objections in relation thereto.

6. In view of the same, the impugned order to be treated as show cause notice and the petitioner is at liberty to raise all objections including the objections if any to the Report, which is now placed before this Court, and the respondents to consider such objections and pass appropriate orders within a reasonable time and till this exercise is completed, status quo obtaining as on today to be maintained.

7. With the direction indicated above, the Writ Petition is disposed of. There shall be no order as to costs.

24.11.2006

SSR